

## Federal Management Regulation

## § 102-37.395

through SASPs, to educational activities which are of special interest to the armed services (referred to in this part 102-37 as service educational activities or SEAs).

(b) Section 549(c)(3) of title 40, United States Code authorizes SASPs to donate surplus property to public agencies and to nonprofit educational or public health institutions, such as:

- (1) Medical institutions.
- (2) Hospitals.
- (3) Clinics.
- (4) Health centers.
- (5) Drug abuse or alcohol treatment centers.
- (6) Providers of assistance to homeless individuals.
- (7) Providers of assistance to impoverished families and individuals.
- (8) Schools.
- (9) Colleges.
- (10) Universities.
- (11) Schools for the mentally disabled.
- (12) Schools for the physically disabled.
- (13) Child care centers.
- (14) Radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations.
- (15) Museums attended by the public.
- (16) Libraries, serving free all residents of a community, district, State or region.
- (17) Historic light stations as defined under section 308(e)(2) of the National Historic Preservation Act (16 U.S.C. 470w-7(e)(2)), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.

(c) Section 213 of the Older Americans Act of 1965, as amended (42 U.S.C. 3020d), authorizes donations of surplus property to State or local government agencies, or nonprofit organizations or institutions, that receive Federal funding to conduct programs for older individuals.

[67 FR 2584, Jan. 18, 2002, as amended at 71 FR 23868, Apr. 25, 2006; 72 FR 12572, Mar. 16, 2007]

### DONEE ELIGIBILITY

#### **§ 102-37.385 Who determines if a prospective donee applicant is eligible to receive surplus property under this subpart?**

(a) For most public and nonprofit activities, the SASP determines if an applicant is eligible to receive property as a public agency, a nonprofit educational or public health institution, or for a program for older individuals. A SASP may request GSA assistance or guidance in making such determinations.

(b) For applicants that offer courses of instruction devoted to the military arts and sciences, the Defense Department will determine eligibility to receive surplus property through the SASP as a service educational activity or SEA.

#### **§ 102-37.390 What basic criteria must an applicant meet before a SASP can qualify it for eligibility?**

To qualify for donation program eligibility through a SASP, an applicant must:

- (a) Conform to the definition of one of the categories of eligible entities listed in § 102-37.380 (see appendix C of this part for definitions);
- (b) Demonstrate that it meets any approval, accreditation, or licensing requirements for operation of its program;
- (c) Prove that it is a public agency or a nonprofit and tax-exempt organization under section 501 of the Internal Revenue Code;
- (d) Certify that it is not debarred, suspended, or excluded from any Federal program, including procurement programs; and
- (e) Operate in compliance with applicable Federal nondiscrimination statutes.

#### **§ 102-37.395 How can a SASP determine whether an applicant meets any required approval, accreditation, or licensing requirements?**

A SASP may accept the following documentation as evidence that an applicant has met established standards for the operation of its educational or health program:

- (a) A certificate or letter from a nationally recognized accrediting agency

affirming the applicant meets the agency's standards and requirements.

(b) The applicant's appearance on a list with other similarly approved or accredited institutions or programs when that list is published by a State, regional, or national accrediting authority.

(c) Letters from State or local authorities (such as a board of health or a board of education) stating that the applicant meets the standards prescribed for approved or accredited institutions and organizations.

(d) In the case of educational activities, letters from three accredited or State-approved institutions that students from the applicant institution have been and are being accepted.

(e) In the case of public health institutions, licensing may be accepted as evidence of approval, provided the licensing authority prescribes the medical requirements and standards for the professional and technical services of the institution.

(f) The awarding of research grants to the institution by a recognized authority such as the National Institutes of Health, the National Institute of Education, or by similar national advisory council or organization.

**§ 102-37.400 What type of eligibility information must a SASP maintain on donees?**

In general, you must maintain the records required by your State plan to document donee eligibility (see appendix B of this part). For SEAs, you must maintain separate records that include:

(a) Documentation verifying that the activity has been designated as eligible by DOD to receive surplus DOD property.

(b) A statement designating one or more donee representative(s) to act for the SEA in acquiring property.

(c) A listing of the types of property that are needed or have been authorized by DOD for use in the SEA's program.

**§ 102-37.405 How often must a SASP update donee eligibility records?**

You must update donee eligibility records as needed, but no less than every 3 years, to ensure that all documentation supporting the donee's eligi-

bility is current and accurate. Annually, you must update files for non-profit organizations whose eligibility depends on annual appropriations, annual licensing, or annual certification. Particular care must be taken to ensure that all records relating to the authority of donee representatives to receive and receipt for property, or to screen property at Federal facilities, are current.

**§ 102-37.410 What must a SASP do if a donee fails to maintain its eligibility status?**

If you determine that a donee has failed to maintain its eligibility status, you must terminate distribution of property to that donee, recover any usable property still under Federal restriction (as outlined in §102-37.465), and take any other required compliance actions.

**§ 102-37.415 What should a SASP do if an applicant appeals a negative eligibility determination?**

If an applicant appeals a negative eligibility determination, forward complete documentation on the appeal request, including your comments and recommendations, to the applicable GSA regional office for review and coordination with GSA headquarters. GSA's decision will be final.

**CONDITIONAL ELIGIBILITY**

**§ 102-37.420 May a SASP grant conditional eligibility to applicants who would otherwise qualify as eligible donees, but have been unable to obtain approval, accreditation, or licensing because they are newly organized or their facilities are not yet constructed?**

You may grant conditional eligibility to such an applicant provided it submits a statement from any required approving, accrediting, or licensing authority confirming it will be approved, accredited, or licensed.

**§ 102-37.425 May a SASP grant conditional eligibility to a not-for-profit organization whose tax-exempt status is pending?**

No, under no circumstances may you grant conditional eligibility prior to receiving from the applicant a copy of